

## **EXHIBIT A**

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Before the Honorable William H. Alsup, Judge

WAYMO LLC,

Plaintiff,

VS.

UBER TECHNOLOGIES, INC.;

OTTOMOTTO LLC; OTTO TRUCKING

Defendants.

No. C 17-0939 WHA

**BOUND SEPARATELY**

**PAGES 95 - 145 (UNDER SEAL)**

San Francisco, California

Wednesday, September 20, 2017

**TRANSCRIPT OF PROCEEDINGS**

**APPEARANCES:**

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(Appearances continued on next page)

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Official Reporters

1 And I don't mean to sound technical, but this is very  
2 important. There is no evidence that he actually downloaded  
3 anything onto that device. It's very important.

4 All they've been able to prove is that some device was  
5 plugged into his computer. That's the distinction that I'm  
6 trying to draw. So I don't want to make a concession here  
7 that's inaccurate.

8 If you want to talk about inferences, we can talk about  
9 inferences. But they have not been able to prove that anything  
10 was actually downloaded onto that device.

11 And that's why I'm saying to you, it would have been  
12 important for you, as the judge, to know at the preliminary  
13 injunction stage that actually downloading Tortoise is not  
14 suspicious at all. It's instruction number one of the document  
15 that I just showed you.

16 And downloading 14,000 files, which they pointed out to  
17 you how many gigabytes that was, it would have been  
18 appropriate, I think, for them to tell you, and, by the way, if  
19 you follow instruction number three on the paper I just handed  
20 you, that is precisely what would happen. And --

21 **MR. VERHOEVEN:** May I respond?

22 **THE COURT:** Does the A team come forward?

23 **MR. VERHOEVEN:** No, no. This is transitioning from  
24 the technical to whether this means anything. And I'd like --

25 **THE COURT:** What do you say in response to what I just

1 heard?

2 **MR. VERHOEVEN:** Well, we, last Thursday, received the  
3 Stroz report. And at page 12 it talks about evidence on  
4 Levandowski's personal laptop, of 24,000 files in a folder  
5 called "Chauffeur SVN."

6 And just --

7 **MR. GONZÁLEZ:** Your Honor --

8 **MR. VERHOEVEN:** This is something they have designated  
9 confidential, Your Honor.

10 **MR. GONZÁLEZ:** I would be happy to respond, but I  
11 believe there's an issue and motions for protective order  
12 pending, that have been filed by other defendants, with respect  
13 to the substance of the report.

14 I will say one thing --

15 **THE COURT:** I have said in an order, I thought, -- has  
16 that order gone out? -- that we can't go through life in this  
17 case on saying that anything that's in the due diligence report  
18 is confidential. So when we have the trial, it's going to be  
19 public. Period.

20 Now, I am going to say that you ought to keep it, quote,  
21 at the low-level confidential, among yourselves, and not give  
22 it to the *New York Times* and everybody else, at that low level.

23 But when we come to court, we're going to talk openly.  
24 This court belongs to the public. It does not belong to you  
25 lawyers or you parties. And there's nothing in that due

1 diligence report, in my view, that is any worse than the stuff  
2 that's already come out.

3 So I'm going to just say you can -- I think I know what  
4 you were about to say. And you go ahead and say it.

5 **MR. VERHOEVEN:** So this is actually information we  
6 learned and put together last night.

7 So -- but on last Thursday, we saw the Stroz report. On  
8 page 12 it said that there were 24,000 files in  
9 Mr. Levandowski's personal device. It also said that they were  
10 deleted on December 14th.

11 Now, Your Honor, probably doesn't recall the specifics,  
12 but if you match that up against Google's -- or Waymo's  
13 analysis of what happened with Levandowski's Google laptop, the  
14 evidence shows he downloaded 14,000 files from the SVN server  
15 on December 11th. And on December 14th, same day as these  
16 24,000 files were deleted, he put in the card reader, for eight  
17 hours, in his Google Waymo laptop and then, we think, copied  
18 all of those files.

19 The very same day we have here a statement by Stroz that  
20 24,000 files from the same SVN server were deleted off his  
21 personal computer.

22 Well, last night we finally got an identification of what  
23 those 24,000 files were. And there's a chunk that's nonsense.  
24 But of the 14,000 files that we identified at the beginning of  
25 this case, all but seven are in that 24,000 that were deleted.

1           **THE COURT:** If they were deleted, how do you know what  
2 they were?

3           **MR. VERHOEVEN:** Because Stroz can give us the  
4 identification of the file names. And that's what we got.

5           So through forensic analysis, we know now that there's an  
6 overlap of all but seven files between what Levandowski copied  
7 off his card reader on the 14th of December, put onto his  
8 personal laptop on the 14th of December, and then deleted off  
9 of his personal laptop.

10          Your Honor, this is one example of why we need a  
11 continuance. We need to follow this trail.

12          **THE COURT:** No. Stop on that right now. See, you're  
13 sliding off on to something else.

14          **MR. VERHOEVEN:** Sorry.

15          **THE COURT:** I'm trying to understand the download  
16 point first.

17          **MR. VERHOEVEN:** Just to finish off, we haven't had the  
18 opportunity yet to -- although we'll get to it soon -- to  
19 examine forensically this laptop on which the 14,000 files were  
20 deleted.

21          There could very well be evidence that he copied those --

22          **THE COURT:** Well, where is that laptop now?

23          **MR. VERHOEVEN:** It's at Stroz.

24          **THE COURT:** You mean the Levandowski personal laptop  
25 is at Stroz?